



UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No: 20

ERWIN SCHWARTZ
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OFFICE OF PETITIONS

In re Application of
Schwartz, et al.
Application No. 08/418,286
Filed: 7 April, 1995
Attorney Docket No. (None)

ON PETITION

This is a decision on the request assigned to be treated as a petition under 37 C.F.R. §1.182 and §1.48 filed on 9 February, 2004, seeking to alter the inventive entity.

For the reasons set forth below, the petition under 37 C.F.R. §1.182 and §1.48 is **DISMISSED**.

NOTES:

- (1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.182 and §1.48 must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.182 and §1.48";
- (2) Thereafter, there will be no further reconsideration of this matter.

- (3) Petitioner's submissions suggest a lack of familiarity with practice before the Office. Petitioner may wish to seek the guidance of an individual registered to practice before the Office, which information may be found at www.uspto.gov.

BACKGROUND

The record reflects that:

- Petitioners failed to reply timely and properly to the final Office action mailed on 27 February, 1996, with a reply due (absent a request and fee for extension of time) on or before Monday, 27 May, 1996;
- in late May 1996, the Office accepted Petitioners' Revocation of Power of Attorney from their former agent and Petitioners undertook prosecution *pro se*;
- following Petitioner's reply filed on 5 May, 1996, which reply did not place the application in condition for allowance, the Examiner mailed an Advisory Action on 3 June, 1996;
- the application was deemed abandoned after midnight 27 May, 1996;
- Notice of Abandonment was mailed on 1 October, 1996;
- as the basis of their claim of unavoidable delay over the seven years and nearly seven months between the due date of their reply and the filing of the instant petition, Petitioners allege that they had to go to court to seek copies of their papers from their former agent;
- contemporaneously with the petition, Petitioners submitted a terminal disclaimer (and fee) and a document, which, while it may be intended as a reply to the 23 May, 2003, Office action, is not a proper reply in that it is not a Notice of Appeal, a CPA or RCE, and it does not *prima facie* place the application in condition for allowance (see: MPEP §711.03(c));
- the petition to revive was dismissed on 29 January, 2004, and the application remains abandoned;
- moreover, Petitioner Erwin Schwartz now seeks to alter the inventive entity, and, specifically, he states as his complete request: "Please REMOVE the name of Peter Lipert from this application. Please confirm receiving this request."

However, Petitioner Schwartz provides no statutory, regulatory or factual basis for this request—in particular, he does not provide a statement from Peter Lipert concurring in this request and does not provide a new oath/declaration.

Petitioner is referred to the terms of the regulations at 37 C.F.R. §1.48, which may be found at: <http://www.uspto.gov/web/patents/legis.htm>

Therefore, the request considered as a petition is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By mail: (Effective 1 May, 2003)¹
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306 (IFW Formal Filings)
ATTN.: Office of Petitions

By hand: Customer Service Window
Lobby/Room 1B03
Crystal Plaza Two
2011 South Clark Place
Arlington, VA 22202

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.



John J. Gillon, Jr.
Senior Attorney
Office of Petitions

¹ To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.